

Office Memorandum • UNITED STATES GOVERNMENT

TO : Lawrence R. Houston

DATE: 23 September 1953

OGC Has Reviewed

FROM : Office of General Counsel

SUBJECT: Conversation with Mr. Ben Pollack, Department of Justice

1. I talked today with Mr. Ben Pollack, Department of Justice (Code 197, X 298), concerning the matter which you had apparently discussed with Mr. Minor this morning. Mr. Pollack seems to be the Justice Department authority on the administration of Executive Order 10450.

2. I asked Mr. Pollack if it were not permissible for a Board to be convened legally pursuant to Executive Order 10450 in a case where the employee had not be suspended, and whether the words, "such investigation and review as he deems necessary" contained in the Executive Order did not give the Director of this Agency the authority to convene a Board under such circumstances as seemed to him appropriate.

3. Mr. Pollack stated that the Act of August 26, 1950 *specifically states* requires that a person who has completed his probationary period of employment must be given a statement of charges after suspension and before termination. In Mr. Pollack's opinion this means that the employee must be suspended before he can be terminated, and that he must be suspended before he may be issued a statement of charges and afforded a Board hearing. Concerning the words, "such investigation and review as he deems necessary" Mr. Pollack pointed out that this Section 6 of the Executive Order continues to state that the head of the Agency concerned shall terminate the employment "of such suspended official" in accordance with the Act of August 26, 1950.

4. In answer to my direct and specific question Mr. Pollack gave his opinion that a Board convened before the suspension of the employee would have no standing as an official Board under Executive Order 10450. In view of this statement and in view of the fact that you must report back to the "Board" I recommend that we ask Justice for a written opinion on this subject. Mr. Pollack stated that he would give his opinion in writing only upon receipt of a written request addressed to the Attorney General or Deputy Attorney General.

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